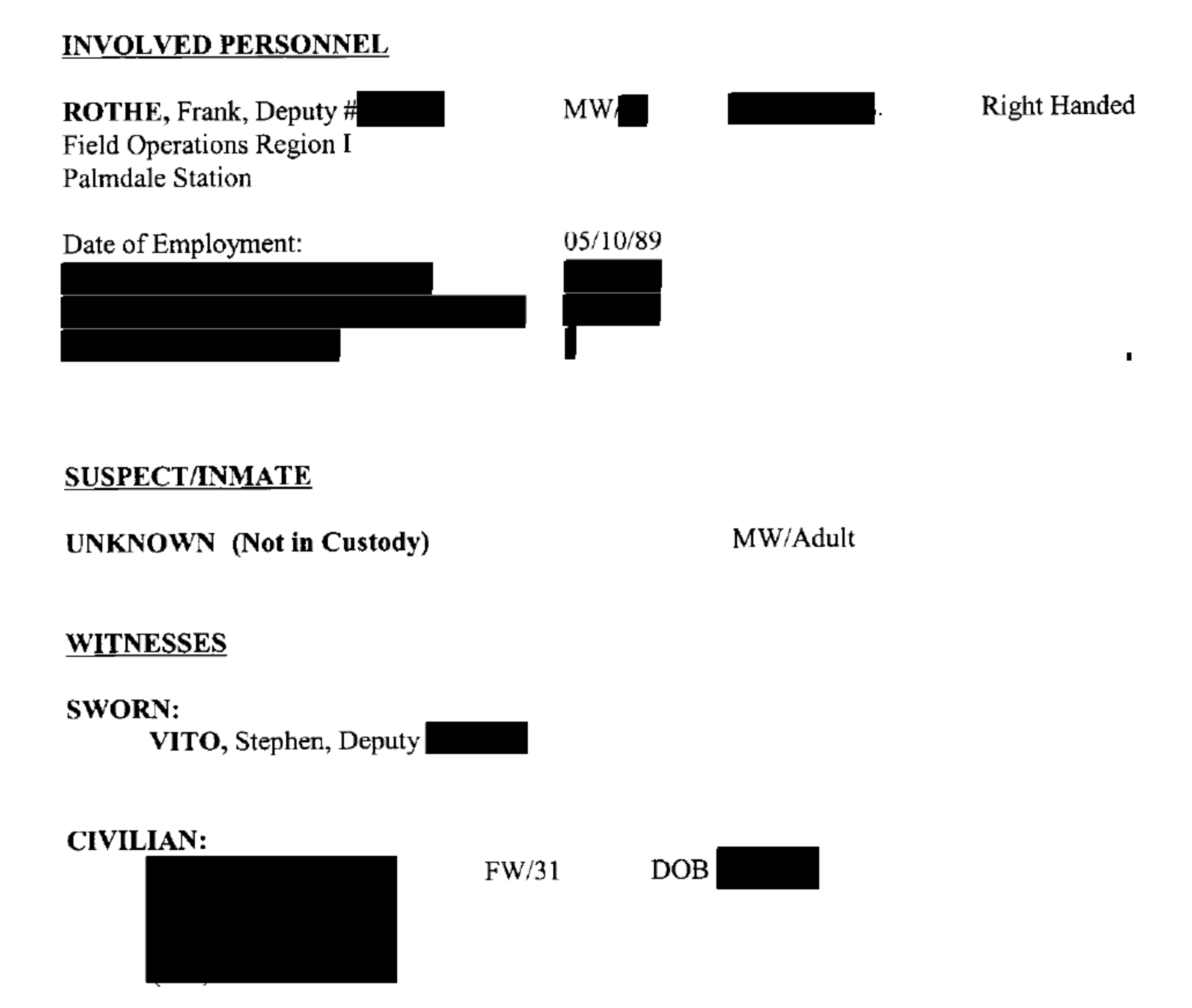
INVESTIGATIVE SUMMARY
OFFICER INVOLVED SHOOTING (NON-HIT)
SH 2041062
401-10523-2665-057

On Monday, July 23, 2001, Sergeants Clay Porlier and Mike Berg and Lt. Greg Johnson of the Internal Affairs Bureau responded to 80th St. East and Pearblossom Hwy in the unincorporated area of Littlerock regarding an officer involved shooting (non-hit), following a pursuit of a reckless driver. The suspect eluded capture and it is unknown if he was injured. The involved deputies were not injured.



INVOLVED PERSONNEL

ROTHE, Frank, Deputy #[redacted] MW/[redacted] [redacted]. Right Handed
Field Operations Region I
Palmdale Station

Date of Employment: 05/10/89
[redacted] [redacted]

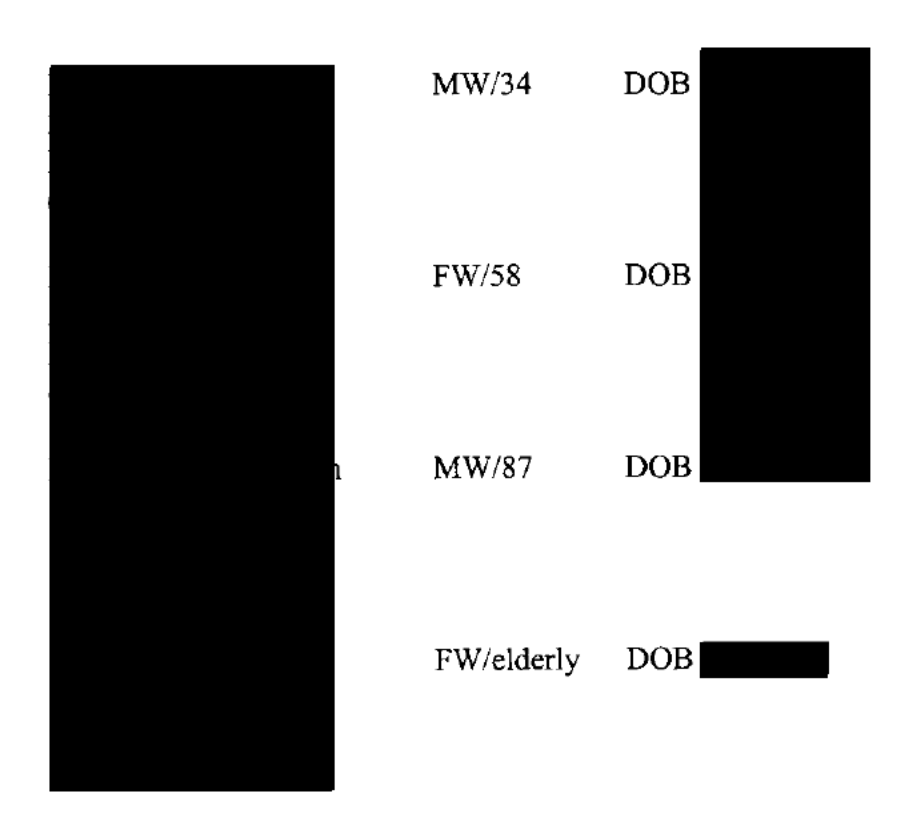
SUSPECT/INMATE

UNKNOWN (Not in Custody) MW/Adult

WITNESSES

SWORN:
VITO, Stephen, Deputy [redacted]

CIVILIAN:
[redacted] FW/31 DOB [redacted]



[redacted]	MW/34	DOB	[redacted]
	FW/58	DOB	[redacted]
	MW/87	DOB	[redacted]
	FW/elderly	DOB	[redacted]

INJURIES

Deputies: Neither deputy suffered any injuries as a result of the pursuit or shooting.

Suspect: The suspect was not apprehended and it is unknown if he suffered any injuries.

PHYSICAL EVIDENCE

Shell casings recovered from Deputy Rothe's Department issued Berreta 9mm 92F.
Photographs of tire tracks possibly left by the suspect's vehicle.

INVESTIGATOR OBSERVATIONS

The area in which the shooting occurred is sparsely populated. The area downrange from where Deputy Rothe fired his weapon consists of a large dirt berm followed by an aqueduct and vacant land leading into foothills.

WEAPONS USED BY DEPUTY PERSONNEL

Service Weapon Type:	Department issued Berreta 92F 9mm, serial #BER[redacted]
Type of Ammunition Used:	Department issued Winchester Black Talon 9mm
[redacted]	[redacted]

WEAPONS USED BY SUSPECT/INMATE

Type of Weapon Used or Suspected Used:	None seen
Weapons Recovered:	None
Casings Recovered:	None
Gunshot Residue Results:	------
Weapon Checked for Fingerprints:	------
Results:	------

PROPERTY DAMAGE

Other than what appears to be a fresh bullet hole in a wooden fence down range from where Deputy Rothe fired his weapon, no property damage was noted.

CRIMINAL INVESTIGATOR/CHARGES FILED

Investigator's Name:	Det. Steve Lankford
Court:	Antelope Valley Superior Court
Charges:	Assault With A Deadly Weapon On A Peace Officer, 245(C) PC
Court Date:	-------------------------

LIGHTING AND WEATHER CONDITIONS

There was no street lighting in the area of the shooting, and little if any light provided by the few houses nearby. In essence, all lighting was provided by the suspect's and deputy's vehicles, however visibility was restricted by the dust produced by both vehicles. Weather at the time of the shooting was clear, no wind, and temperatures in the low 70's.

INVOLVED EMPLOYEE STATEMENT

Deputy Frank Rothe was Deputy Vito's partner and [redacted] on July 23, 2001. He was interviewed on August 6, 2001 at Santa Clarita Valley Station regarding his use of force at the culmination of the pursuit and was afforded all the rights as that of a subject. He was represented by Richard Shinee of ALADS.

Deputy Rothe said he and Deputy Vito were parked at the southeast corner of 87th St. East and Avenue T. Deputy Vito was completing a report while Deputy Rothe monitored traffic for a wanted 211 vehicle, described in an earlier briefing. Deputy Rothe heard the screeching of tires and saw a Honda traveling in the center lane of Avenue T, turning right onto 87th St. East, making a turn out of position and failing to stop at the posted stop sign. Immediately behind the Honda was an older small truck such as a Toyota or Datsun. The truck, even more out of position than the Honda, also made a right turn and failed to stop at the stop sign. The truck was traveling at a higher speed than the Honda and its path took it into the oncoming lanes of traffic, traveling southbound in the northbound lanes of 87th St. East. As the truck began to overtake the Honda, Deputy Rothe turned on his overhead rotators in an effort to gain the attention of both drivers. As both vehicles passed the patrol car, Deputy Rothe pulled out after them, the Honda following the truck. Both cars immediately stopped, the truck well in front of the Honda. Deputy Rothe asked the driver of the Honda to pull up behind the truck, which the driver did. As both deputies exited the patrol car, Deputy Rothe instructed Deputy Vito to keep an eye on the driver of the truck as he contacted the two people inside the Honda. Deputy Rothe said he had not walked past the spotlight of his patrol car when the truck suddenly sped away, fishtailing as it did so and crossing into oncoming traffic. Deputy Rothe asked the people inside the Honda if they knew the driver of the truck. They denied knowing the driver.

Deputy Rothe and Deputy Vito went back to their patrol car and began following the suspect vehicle, watching it recklessly cross over into oncoming traffic, then swerve to the other side of the road onto the dirt shoulder, then make an unsafe turn onto Avenue T-8. All the time doing so while blacked out. Deputy Rothe said he told Deputy Vito to initiate a pursuit because the suspect vehicle was driving so recklessly as to endanger the public. The traffic in the area at the time was virtually non-existent and there were no pedestrians. Deputy Rothe said they estimated the suspect vehicle's speed prior to initiating the pursuit at 60-65 mph. They pursued the vehicle through the rural residential area of Littlerock, watching as the driver continued with his dangerous driving behavior such as crossing over into oncoming lanes of traffic, driving on the shoulder of the road and failing to stop or slow for all stop signs. Deputy Rothe does not recall any other drivers having to take evasive action to avoid being struck by the suspect vehicle.

The pursuit eventually proceeded to southbound 80th St. East from Pearblossom Hwy. Deputy Rothe knew the street was a dead end (ending with a dirt berm just prior to the aqueduct) with nowhere for the suspect to go. He felt the situation was going to result in either the suspect giving up or fleeing on foot. As they drove onto the final segment of the road (which is dirt), Deputy Rothe slowed his vehicle and moved to the right side of the road, expecting the suspect to stop. Instead, the suspect

drove toward the left, then circled to the right, the engine racing and the tires spinning. Deputy Rothe thought it was possible the suspect initially turned to the left believing there was another dirt road, but made an accelerated turn to the right when he realized there was no outlet. The suspect continued fishtailing in a right turn until he was headed at the patrol car. The suspect then drove directly at the deputies who were still inside the patrol car. Deputy Rothe felt they were both in danger and yelled to Deputy Vito that the suspect was going to hit them. Deputy Rothe exited the car and stepped to the east while Deputy Vito got out of the car to the west. Because he was in the process of slowing and had not yet stopped, the car remained in "drive." (When he suddenly realized the suspect was about to hit them, Deputy Rothe made a quick choice to bail out of the car and draw his weapon with the intention of firing at the suspect to protect he and Deputy Vito. In doing so, Deputy Rothe could not also place the patrol car into "park," since he used his right hand for both operations.) Deputy Rothe said he fired his weapon at the suspect vehicle when it appeared the suspect was now aiming directly at him as opposed to the patrol car. Deputy Rothe said he fired seven rounds at the suspect vehicle in two separate volleys. In order to avoid being struck by the suspect vehicle, Deputy Rothe said he had to jump out of its path. The suspect vehicle passed between Deputy Rothe and his patrol car, nearly hitting him. Deputy Rothe and Deputy Vito got back into their patrol car and gave chase, but by now the suspect vehicle was out of sight.

On August 29, 2001, a follow-up interview was conducted telephonically with Deputy Rothe and his ALADS representative, Richard Shinee, to clarify certain points.

Deputy Rothe stated he told Deputy Vito he was considering cancelling the pursuit because towards the end of the pursuit while traveling on an east to west street, the suspect was crossing intersections in excess of 50 mph with cross-traffic traveling at similar speeds. However, when the suspect turned southbound on 80th St. East and crossed Pearblossom Highway, Deputy Rothe realized the street was a dead-end with no place for the suspect to go.

Deputy Rothe could not state whether the suspect vehicle, when it turned around at the dead-end of the dirt street, was traveling directly at their patrol car or coming toward them at an angle. He said the dust produced by the spinning wheels of the suspect's vehicle and the lack of general lighting allowed him only to see headlights coming at them.

When asked why he elected to leave his patrol car rather than take advantage of the safety it provided (given its weight advantage over the suspect's small pick-up and the patrol cars's two front air bags), Deputy Rothe said he was concerned that should the suspect ram his door, he would be an easy target for the suspect should he decide to shoot him or hurt him in some other fashion. Deputy Rothe also stated that had the air bags in the patrol car been activated, he and Deputy Vito could have been injured or stunned, again leaving them at a disadvantage should the suspect decide to aggress them in some manner. Overall, Deputy Rothe did not feel their patrol car was the safest place to be.

Deputy Rothe said that when he exited the patrol car and saw the suspect vehicle was still coming

at him, he began firing at it. As he was firing at the suspect vehicle, he continued moving toward the east. Deputy Rothe said he fired from left to right as he tracked the suspect vehicle. The suspect vehicle passed between Deputy Rothe and the patrol car which was still slowly rolling forward. Deputy Rothe was unable to say how far away the suspect vehicle was when it passed, or how close it came to the patrol car. Deputy Rothe does not recall seeing Deputy Vito in his line of fire while he was shooting at the suspect vehicle.

WITNESS EMPLOYEE STATEMENT

Deputy Stephen Vito was Deputy Rothe's partner on the night of the shooting. He was also in his [redacted], with Deputy Rothe being [redacted]. Deputy Vito was interviewed early on the morning of July 24, 2001 as a witness regarding the use of force by Deputy Rothe.

Deputy Vito said he was working as the bookman in unit 266A with [redacted], Deputy Rothe. He said they were parked in the parking lot of the south east corner of Avenue T and 87th St. East. He was catching up on his paperwork as Deputy Rothe monitored traffic for a vehicle involved in a recent robbery. Deputy Vito heard the screeching of tires and looked up to see an older Honda coming eastbound on Avenue T. The Honda had failed to fully stop for the stop sign at 87th St. East, then turned southbound on 87th St. East. Following closely behind the Honda was the suspect vehicle, an older (early 80's) small, blue pick-up, possibly a Toyota. The suspect vehicle appeared to be traveling much faster than the Honda and also failed to stop at the stop sign, veering into oncoming westbound traffic. The suspect vehicle then made a wide turn to go southbound on 87th St. East, again veering into oncoming traffic in the northbound lanes, passing their patrol car with its tires screeching.

Deputy Rothe flicked on the overhead rotating lights of the patrol car to get the attention of the two drivers. Both vehicles immediately pulled over to the right side of the road. Deputy Vito said the suspect vehicle, possibly because of its speed, went past the Honda and stopped in front of it. Deputy Rothe pulled out of the driveway onto 87th St. East and pulled behind the Honda, effecting a traffic stop. Prior to exiting their patrol car, Deputy Rothe told Deputy Vito to watch the person in the truck (suspect vehicle) as he contacted the driver of the Honda. As Deputy Vito walked by the front of their patrol car, the driver of the truck (suspect vehicle) quickly sped away. Deputy Rothe yelled to the driver of the Honda, asking him if he knew the driver of the suspect vehicle. The driver of the Honda denied knowing the driver of the suspect vehicle. (The driver of the Honda was not identified, nor did they get a license plate from the vehicle.)

Deputies Rothe and Vito quickly went back to their vehicle, watching the driver of the suspect vehicle speed away. As they watched, the suspect vehicle left the southbound lanes of 87th St. East and swerved into oncoming traffic of the northbound lanes. The suspect made a wide sweeping turn to the left and continued eastbound, possibly on Avenue T-8. At this point, Deputies Rothe and Vito had begun driving their patrol car and also turned eastbound on Avenue T-8. Up ahead they could

see the suspect vehicle traveling eastbound, "all over the road." Deputy Vito recalled seeing the suspect vehicle driving over the front portion of someone's yard. Deputy Rothe told Deputy Vito the suspect was driving out of control and announced they were going in pursuit. Deputy Vito grabbed the radio and put out that they were in pursuit of a flagrantly reckless driver, possibly DUI.

Deputy Vito does not recall seeing any pedestrians or oncoming traffic along this stretch of Avenue T-8. The suspect continued to drive recklessly, failing to stop at numerous stop signs and driving on the dirt shoulder of the road. Deputy Vito recalled at least one incident during this portion of the pursuit where other drivers had to brake to avoid colliding with the suspect at a stop sign controlled intersection. The speed of the suspect vehicle ranged from 15-60 mph and the pursuit traversed the rural residential area of Littlerock. (Deputy Vito requested an air unit, but the only air unit available needed to refuel and did not arrive until the pursuit and shooting were over.)

As they turned south on 80th St. East from Pearblossom Hwy, Deputy Vito said Deputy Rothe told him to get ready to [redacted] the pursuit. Deputy Vito believed it was because Deputy Rothe felt the suspect's driving was deteriorating and a crash was eminent. Deputy Rothe then told Deputy Vito that 80th St. East was a dead end, with no where for the suspect to go. As their vehicles left the pavement for the dirt portion of the road, they could tell by the dust being kicked up by the suspect that he was turning around, his vehicle now at the dead end of the dirt road. Deputy Vito believes Deputy Rothe at this point moved their vehicle over to the right side of the road and came to a stop. They both felt that one of two situations were about to unfold: that they were either going to conduct a felony traffic stop or they were about to go into foot pursuit. Instead, the suspect vehicle continued making a turn and now had its headlights pointed directly at them, coming in from an angle (from southeast to northwest), although it was very difficult to see due to the dust kicked up by the suspect's vehicle. Deputy Rothe yelled to Deputy Vito, "Steve, he's going to hit us!" Deputy Rothe then exited the patrol car. As Deputy Vito began to also exit the vehicle, he heard several gunshots. As he turned to face the sound of the gunshots, the suspect vehicle veered away from them, closely passing the driver's door of the patrol car. Deputy Vito believes the suspect had every intention of colliding with he and Deputy Rothe and/or their vehicle, but because his window was rolled down and he heard the gunfire, chose to veer away at the last moment. Deputy Vito said he felt his life and that of Deputy Rothe's were in danger due to the threat presented by the suspect vehicle. Deputy Vito said he had his weapon drawn, but Deputy Rothe was in his line of fire, precluding him from firing. When he was presented with a clear shot at the suspect, the vehicle had passed and was no longer a threat. Both he and Deputy Rothe ran to their patrol car (apparently it was not fully placed into "park", and briefly rolled away), and quickly turned around. However, by the time they drove through the dust they had lost sight of the suspect vehicle. Assisting deputies as well as the air unit scoured the area but were unable to locate the suspect vehicle.

Sergeant Vincent Burton was the Palmdale Station Watch Commander during the pursuit and shooting. He was interviewed telephonically on 09/25/01.

He stated he and the field sergeant (Sgt. Hill) were attending the early morning shift briefing when

they heard the announcement of a pursuit. After responding to the desk area he made contact with SCC through the cold-line, at the same time gathering information from desk personnel. Sgt. Hill said he was immediately concerned with the conditions and nature of the pursuit. Sgt. Hill learned that the pursuit was initiated as a result of field deputies observing a vehicle being driven recklessly. After hearing the information (speeds, traffic conditions, reason for pursuit, etc.) provided by the pursuing unit (266A-Deputies Rothe and Vito), coupled with his knowledge of the sparsely populated area and the good weather conditions, Sgt. Burton felt the pursuit was within Department guidelines. He also was familiar with Deputy Rothe and how he conducted himself. This, combined with Deputy Vito's calm demeanor on the radio, assured Sgt. Burton the pursuit was being handled properly. He also knew his field sergeant was aware of the pursuit and en-route to the area.

As Sgt. Burton monitored the pursuit, he listened for any indications the field unit was being driven beyond the stated speeds, such as tires squealing in the background or changes in the deputies voices. Sgt. Burton heard none of these indicators, and knowing the pursuit was coursing through an area with very little traffic or residents, he felt comfortable in allowing the pursuit to continue for a short while. He also stated that he would have cancelled the pursuit if it had entered and remained on Pearblossom Highway. He stated Pearblossom Highway is a main thoroughfare going to Victorville and always has traffic on it. Based on what he knew of the circumstances behind the pursuit, he did not feel conditions warranted allowing it to continue on Pearblossom Highway. Sgt. Burton also was aware that both an air unit and spike strips had been requested, but neither were close enough to be utilized during the pursuit.

CIVILIAN WITNESS STATEMENTS

Some of the civilian witnesses in the area heard the gunfire, but nothing more. None of the witnesses actually saw any of the incident.

SUSPECT STATEMENT

The suspect is still outstanding.

MISCELLANEOUS